



Congress of the United States
House of Representatives
Washington, DC 20515

April 22, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue N.W.
Washington, D.C. 20220

The Honorable Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street N.E
Washington, D.C. 20549

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
550 17th Street N.W.
Washington, D.C. 20429

The Honorable Kenneth A. Blanco
Director
Financial Crimes Enforcement Network
1500 Pennsylvania Avenue N.W.
Washington, D.C. 20220

Dear Secretary Mnuchin, Secretary Fields, Chairman McWilliams, and Director Blanco:

We write to draw your attention to the difficulties of “banking while Muslim” and urge you to work towards modernizing current anti-money laundering/financial crimes compliance (AML/FCC) obligations. The COVID-19 pandemic has highlighted the importance of charitable organizations and the necessity of accessible banking. However, in recent years, countless Muslim individuals, businesses, and charities have been victims of discriminatory policies and practices that limit their access to financial services.¹ We ask for your support in helping to address this problem.

¹ See: “U.S. Muslim Charities and the War on Terror: A Decade in Review.” (2011). Charity and Security Network. < <https://www.charityandsecurity.org/system/files/USMuslimCharitiesAndTheWarOnTerror.pdf>>; Eckert, Sue E., Kay Guinane and Adrea Hall. (2017) “Financial Access for U.S. Nonprofits.” Charity and Security Network. < [https://www.charityandsecurity.org/system/files/FinancialAccessFullReport_2.21%20\(2\).pdf](https://www.charityandsecurity.org/system/files/FinancialAccessFullReport_2.21%20(2).pdf)>; Gordon, Stuart and Sherine El Taraboulsi-McCarthy. (2018). “Counter-terrorism, bank de-risking and humanitarian response: a path forward.” Policy Brief 72, Humanitarian Policy Group. < <https://www.odi.org/sites/odi.org.uk/files/resource-documents/12368.pdf>>; Salih, Huda. (July 4, 2017). “Banks’ de-risking and the effect on Muslim charities.” Risk Advisory. < <https://www.riskadvisory.com/news/banks-de-risking-and-the-effect-on-muslim-charities/>>. Hall, Kevin G. and Rob Wile. (December 17, 2018). “Are Muslim-owned accounts being singled out by big banks?”, McClatchyDC. <<https://www.mcclatchydc.com/latest-news/article221921090.html>>.

As you know, in the wake of the September 11, 2001 terrorist attacks, AML/FCC obligations were created to protect against illicit financial activities and actors. New rules defined through the USA PATRIOT Act and other measures to strengthen the Bank Secrecy Act (BSA) have forced institutions to exclude participants from the financial system. These regulations have caused banks to “de-risk,” shutting out individuals and organizations perceived to be too expensive to maintain AML/FCC compliance. As a result, many Muslim and Arab Americans, simply because of their connections, real or perceived, to Muslim and Arab countries, have been automatically labeled high-risk and are therefore unable to maintain access to financial services.

One recent example of an organization unfairly targeted by big banks is LaunchGood, a crowdfunding platform focused on serving the Muslim community. Despite internal policies that demonstrate their commitment and practice to comprehensive compliance and due diligence efforts, LaunchGood has been, and is being, shut out by multiple financial services providers. Most recently, the organization was warned by *WePay* and its financial partner, *Chase Bank*, that they would be losing their services and engagement ceased because they have perceived LaunchGood to be a high-risk organization. LaunchGood is a widely respected crowd funding platform, with tens of millions of dollars in transactions a year – driven by American donors looking to support legitimate causes. If this type of consistent banking discrimination can happen to them, what chance is there for smaller charities and nonprofit organizations, particularly those that are Muslim-affiliated?

In addition to encouraging ethnic and religious discrimination, the current application of AML/FCC regulations risks weakening our broader national security and humanitarian objectives. U.S.-based charities, crowd-funding platforms, non-governmental organizations (NGOs), and non-profit organizations (NPOs) provide vital assistance to worthy causes, both here in the U.S. and globally. According to the 2009 UN Counter-Terrorism Implementation Task Force Report, NPOs also play a crucial role in fighting conditions conducive to terrorism and reducing the appeal of terrorism by building social structures and increasing inter-community dialogue and understanding.² When charitable organizations do not have adequate financial access, they are forced to conduct transactions in unregulated channels, thereby decreasing transparency and undermining the intended national security goals of AML/FCC regulations.

A risk-based approach can be applied to AML/FCC regulations in order to modernize compliance systems to address these issues, and we encourage you to honor the guidance that has already been put forth by the U.S. Department of the Treasury, the Financial Action Task Force (FATF), and others. For example, as emphasized in the Treasury Department’s National Terrorist Financing Risk Assessment, “the U.S. government does not view the charitable sector as a whole as presenting a uniform or unacceptably high risk of being used or exploited for money laundering, terrorist financing, or sanctions violations.”³ In fact, organizations that make efforts to ensure transparency and demonstrate a comprehensive risk-based approach to combatting the financing of terrorism can be viewed as less risky and should not continue to be

² “Tackling the Financing of Terrorism.” 2009. United Nations Counter-Terrorism Implementation Task Force. <https://www.un.org/counterterrorism/ctitf/sites/www.un.org.counterterrorism.ctitf/files/ctitf_financing_eng_final.pdf>.

³ “National Terrorist Financing Risk Assessment.” 2018. U.S. Department of the Treasury. <https://www.un.org/counterterrorism/ctitf/sites/www.un.org.counterterrorism.ctitf/files/ctitf_financing_eng_final.pdf>.

de-risked by banks. While the intention of current regulations may be to ensure institution-specific and overall financial system security, such efforts should not lead to the denial of secure and sustainable financial sector engagement for otherwise legitimate and well-intentioned actors in the financial community.

Banking as a charity/nonprofit and “banking while Muslim” are not crimes and must stop being treated as such. As elected officials, it is our responsibility to amplify the voices of those who feel powerless in the face of big banks and regulators. We are therefore advocating for a more inclusive financial system, and we reject the notion that there is a binary choice between creating financial inclusion and protecting our financial system from abuse by illicit actors. These are, in fact, complementary goals. We urge you to take seriously the guidance of the U.S. Treasury and other groups by undertaking a more holistic application of the risk-based approach of AML/FCC regulations.

Additionally, we request that you provide us with answers to the following questions:

Beyond the U.S. Treasury Department’s most recently released guidance, how will you create explicit guidance to financial services providers regarding NPO/charity clients that:

1. Explicitly informs them that terrorist financing risk in the sector is the *exception* and not the norm to be applied across the board?
2. Assures banks that the IRS form 990, or "Return of Organization Exempt From Income Tax," provides explicit and valuable information that demonstrates evidence of legitimacy?
3. Helps ensure financial services providers engaging the charitable sector are not automatically assessed as carrying undue risk—especially when those charities themselves demonstrate comprehensive approach to such risks and provide transparency of their operations?
4. Clearly communicates to financial institutions that discrimination of any sort will not be tolerated, and where such services are denied, that they have done so in a uniform way without singling out the charitable sector or Muslim-affiliated organizations?

The holy month of Ramadan begins this week. As Muslims around the world embark on this season of charitable giving, and as the urgent need for humanitarian aid continues amid the coronavirus pandemic, it is imperative that we address the issue of banking discrimination. Thank you for your attention to this matter, and we look forward to your response.

Sincerely,



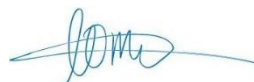
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cc: The Honorable Joseph M. Otting, Comptroller of the Currency, Office of the Comptroller of the Currency

cc: The Honorable Jerome H. Powell, Chair, Board of Governors of the Federal Reserve System